

Request for Proposal

Advertising, Marketing, and Public Relations Services Contractor

Issuance Date: February 1, 2016

CALIFORNIA HOUSING FINANCE AGENCY (CalHFA)
500 Capitol Mall, Suite 1400
Sacramento, CA 95814

**Proposals must be submitted no later than 5:00 p.m., Pacific Standard Time
February 22, 2016**

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Section 1 – Guidelines for Request for Proposals

1.1 Introduction

The California Housing Finance Agency (“**CalHFA**”) was established in 1975. CalHFA provides financing and lending assistance in two major areas of the housing market: Single Family mortgage lending where CalHFA focuses on assisting low and moderate income first-time homebuyers with financing their home (including first mortgages and down payment assistance) and Multifamily financing for the development of affordable housing developments for renovation/preservation and new construction.

CalHFA’s marketing/advertising budget (currently less than \$500,000.00 per fiscal year) focuses on Single Family Mortgage Lending and Multifamily Affordable Housing partners. CalHFA’s target business audience consists of loan officers, mortgage brokers, lenders, real estate agents and affordable housing developers. While we focus on business partner communication and marketing, we do have some presence with our consumer audience who are low and moderate income, first-time homebuyers and renters in California.

CalHFA’s current social media accounts are primarily followed by lender/realtor partners. (<http://twitter.com/CalHFA>, <https://www.facebook.com/CalHFA>) CalHFA’s Social Conversations are split approximately 65% Facebook and 35% Twitter.

CalHFA’s website, CalHFA.ca.gov, receives approximately 400,000 page views each month. Prior to housing market crash in 2007, CalHFA had nearly 1 million views each month during the peak house buying season (spring/summer).

CalHFA is seeking one or more qualified organizations to assist with marketing, advertising, market research and public relations services. As a result of varying specialties, CalHFA may choose one organization for Marketing/Advertising and a different organization for Public Relations.

1.2 RFP Disclaimers

Vendors responding to this RFP should understand that this RFP process might differ significantly from the typical State of California process with which vendors may be familiar. Although CalHFA is a state agency, CalHFA is not required to procure any of its contracts through a competitive bidding process. Neither is CalHFA generally subject to many of the restrictions or requirements associated with state contracting practices. For instance, CalHFA is not required to include any of the protest or appeal rights that may be available under the typical state RFP procedures. In this regard, CalHFA urges vendors to pay particular attention to Section 4 of this RFP “Selection and Reservations” when reviewing and responding to this RFP.

1.3 Schedule of Events

CalHFA has established the following schedule for selection of the Contractor:

<u>Event</u>	<u>Date</u>
RFP issuance date	Monday, February 1, 2016
Written questions due	Monday, February 8, 2016, 5:00 p.m. (PST)
Responses to applicant questions	Monday, February 15, 2016, 5:00 p.m. (PST)
Proposals due (the “Deadline”)	Monday, February 22, 2016, 5:00 p.m. (PST)
Completion of evaluations	Monday, March 14, 2016
Anticipated Contract Start date	Friday, April 1, 2016

The above schedule is subject to change. If the schedule is revised, CalHFA will provide notification through the same channels used to distribute the RFP.

1.4 Submission of Written Questions

It is the policy of CalHFA to accept questions and inquiries from all potential applicants (each a “**Vendor**”). All questions and inquiries must be in writing; no verbal requests will be honored. Potential applicants may submit their questions or inquiries via e-mail to the CalHFA point of contact person (the “**POC**”), Kathy Phillips, at KPhillips@CalHFA.ca.gov.

All questions or inquiries are due by 5:00 p.m. (PST) on Monday, February 8, 2016. CalHFA expects to respond to all questions and inquiries by 5:00 p.m. (PST) on Monday, February 15, 2016, **by emailing all questions and answers to all bidders.**

CalHFA reserves the right to decline to respond to any question or inquiry that will cause an undue burden or expense for CalHFA or which CalHFA deems unnecessary for purposes of responding to this RFP. Until the Vendor has been approved and notice given to all responding vendors, no employee, agent, or representative of a responding vendor shall make available or discuss its Proposal with any officer, member employee, agent, or representative of CalHFA other than the designated POC.

1.5 Verbal Communication regarding RFP prohibited

Verbal communication from any potential applicant regarding this RFP to CalHFA staff and/or CalHFA Board members during the RFP process is prohibited.

1.6 Submission of Proposals

Proposals pursuant to this RFP (the “**Proposal**”) must be submitted in Adobe PDF format. Proposals may be e-mailed to the attention of Kathy Phillips at KPhillips@CalHFA.ca.gov. The subject line should read “Marketing Contractor RFP Response”. Alternatively, Proposals, in Adobe PDF format, may be copied on a CD-ROM and mailed or hand delivered to the address below:

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California Housing Finance Agency
500 Capitol Mall, Suite 1400
Sacramento, CA 95814
Attn: Kathy Phillips
Re: Marketing Contractor RFP Response

Proposals received after the Deadline will not be eligible for consideration. Any applicant who wishes to confirm receipt of their proposal may contact CalHFA by e-mail at KPhillips@CalHFA.ca.gov. CalHFA will respond by e-mail with confirmation of receipt of the proposal.

1.7 Right to Request Additional Information

CalHFA reserves the right to request any additional information to assist in the review process, including requiring oral presentations of proposals to CalHFA staff members and/or a CalHFA Internal Evaluation Committee, defined below.

1.8 Right to Reject Proposals and Cancel RFP

CalHFA reserves the right to reject any and all proposals at any time. CalHFA reserves the right to cancel, withdraw, modify or reissue this RFP at any time for any reason.

1.9 Award of Contract

The Contract will be awarded to the firm(s) that CalHFA decides in its sole discretion gives CalHFA the most effective combination of qualifications, understanding of and ability to provide the services necessary to fulfill CalHFA's needs, and costs.

1.10 Agreement for Services

The firm(s) selected to provide the services described in this RFP will be required to complete and submit an agreed upon Services Contract (the "Contract") covering the scope and terms of this RFP. The Contract will begin on approximately April 1, 2016 with an anticipated initial term of one year, subject to extension in CalHFA's discretion. A draft copy of the terms of the Contract is attached hereto as Exhibit A. CalHFA reserves the right to change or modify the Contract before its execution.

Section 2 – Scope of Services

2.1. Services Required

In the Proposal, describe your firm's ability and experience to provide, where applicable, the following services. It is acceptable to provide information only for the areas of service that your firm provides. Each service does not require an answer.

Marketing/Advertising Services

- a) Build and strengthen CalHFA's public image.
- b) Creatively use digital and traditional marketing methods to increase product sales, brand awareness and traffic to website and social media profiles.
- c) Implement and manage digital and traditional media buys.
- d) Assist with ad campaign concept development and production.
- e) Produce campaign analysis, reporting and recommendations.
- f) Market research, focus groups and analysis.

Public Relations Services

- a) Build and strengthen CalHFA's public image, business partnerships and media relationships.
- b) Writing digital content, speeches, and talking points; assistance with writing and distributing press releases and announcements.
- c) Product promotion through interviews and earned media.
- d) Provide media training to CalHFA staff when necessary.
- e) Research and report on news/media about the Agency/brand.
- f) Research and report on affordable housing industry news/media.
- g) Provide strategic advice and crisis management messaging; brand protection.
- h) Assistance with large event management.

Section 3 – Required Information to be provided in Response to Proposal

3.1 Firm Description and Experience

Please describe your firm's experience providing advertising, marketing and public relations services. The description of your firm should include, but is not limited to, the following:

- a) Location and size;
- b) Number of years of operation;
- c) Organizational structure (including if your firm is a California certified Small Business or California certified Disabled Veteran's Business Enterprise);
- d) Link to your firm's website and social media profiles;
- e) Number of years providing advertising, marketing and public relations services;
- f) Sample list of current clients and length of service to each client;
- g) Previous business relationships with CalHFA, if applicable;

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- h) Experience working with government agencies, if applicable;
- i) Previous experience with affordable rental housing, single family mortgages, financial lending and/or housing policy, if applicable; and
- j) Two examples of previous campaigns and projects.

3.2 Firm References

Please attach at least two (2) references to the Proposal. CalHFA may conduct reference checks of the applicant and the applicant's Key Individuals, defined below. CalHFA expects that all references will respond to CalHFA's inquiry. Clients of the applicant or applicant's Key Individuals, in addition to those provided as references by the applicant, may be contacted by CalHFA as part of its due diligence.

3.3 Staff Qualifications

- a) Identify the key individuals who would be assigned to work with CalHFA (the "**Key Individuals**"). Describe the level of staffing and service that CalHFA would receive, including the nature of the work that each person would perform and their related professional experience.
- b) Specify which person would be designated the primary contact person for CalHFA during the contracting period.
- c) Describe lines of authority during the contracting period.

3.4 Staff Resumes

Furnish resumes for each individual identified in Section 3.3 above. Include references and phone numbers.

3.5 Locations

Identify the location of the office(s) in which the staff members in Section 3.3 above are located.

3.6 Fee/Billing Structure

Provide, as accurately as possible, the fee/billing structure that will be used by your firm for each of the following categories of services (example: hourly rate of \$xxx for planning and strategy; xx% of ad buy for campaign management):

- a) Digital Marketing/Advertising (i.e. display ads, social media, SEO/SEM, etc.);
- b) Traditional Marketing/Advertising (i.e. TV/Radio spots, etc.); and
- c) Public Relations (i.e. News/Media interviews, press release writing and distribution, etc.).

3.7 Litigation, Administrative Proceedings, Investigations

Please describe any pending or resolved litigation, administrative proceedings, or investigations in which your firm has been involved in the previous five years.

3.8 Conflict of Interest

Each responding applicant must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFP, including any relationship that might be perceived or represented as a conflict. By submitting a Proposal, the responding applicant affirms that it has not given, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement. Any attempt to intentionally or unintentionally conceal or obfuscate and any actual concealment or obfuscation, whether intentional or unintentional, of a conflict of interest will automatically result in the disqualification of a responding applicant's Proposal.

CalHFA, in its sole discretion, will determine whether a conflict of interest exists and whether it may disqualify a responding applicant. Responding applicants must provide sufficient facts and information for CalHFA to determine the significance of each potential conflict.

Prior to commencement of any services under the Contract, certain of the responding applicant's employees and agents, as determined by CalHFA, shall complete a California FPPC 700, Statement of Economic Interests as required by CalHFA's Conflict of Interest Code under Section 81000 et seq. of the California Government Code. Furthermore, CalHFA reserves the right to disqualify any responding applicant on the grounds of actual or apparent conflict of interest.

3.9 Confidentiality of Data

The Vendor shall comply with all CalHFA confidentiality requirements pertaining to all financial, statistical and personal data, including any and all non-public personal information of a consumer or customer of CalHFA, technical and other data and information relating to CalHFA's operation that are made available to the Vendor. The Vendor shall take all reasonable measures, including without limitation such measures as it takes to safeguard its own confidential information, to ensure the security and confidentiality of all information provided to it by CalHFA, to protect against all threats or hazards to the security or integrity of the information, and to protect against unauthorized access to or use of the information.

3.10 Licenses

Although not anticipated by CalHFA, the Vendor shall be required to obtain any necessary software licenses required by the Vendor's Proposal and shall comply with all federal, state, and local laws, codes and ordinances without additional cost to CalHFA, other than the costs outlined in the Proposal.

3.11 Other Information

Provide your firm's financial statements for the last two years.

3.12 Other Qualifications

Provide any other qualifications that you would like CalHFA to consider.

Section 4 – Selection and Reservations

4.1 Selection

The qualifications of applicants responding to this RFP will initially be considered by a CalHFA committee (the “***Internal Evaluation Committee***”). The Internal Evaluation Committee will evaluate the responses to this RFP. Each proposal will be evaluated to ensure that the applicant has complied with each section of this RFP and followed the formatting, organizational and submission requirements as described in this RFP. The Internal Evaluation Committee will make recommendations to CalHFA's Executive Director or his/her designee, who may or may not accept the Internal Evaluation Committee's recommendation. The CalHFA Executive Director or his/her designee will select an applicant who, in his/her sole discretion, best meets the requirements of this RFP at a reasonable cost. As part of the selection process, CalHFA may require interviews with the applicants considered the most qualified to provide the services under this RFP.

If required, the CalHFA Board of Directors will provide final approval of the applicant selected by the CalHFA Executive Director or his/her designee. Once approved by the CalHFA Executive Director or his/her designee, and the CalHFA Board of Directors if required, the Vendor will be expected to enter into a Contract with the Agency.

4.2 Reservations

All costs for developing and submitting Proposals pursuant to this RFP are solely the responsibility of the party submitting the Proposal and shall not be reimbursable by CalHFA. Although CalHFA has chosen at this time to seek Proposals for the RFP, it is not required to procure any of its contracts by way of competitive bidding and is generally not subject to many of the restrictions or requirements typically associated with state contracting practices. Accordingly, the Agency reserves its right to select one, multiple or reject all Proposals submitted pursuant to this RFP.

In addition, the Agency reserves the right to:

- Request an interview with any applicant prior to selection.
- Select for contract negotiation the applicant that, in the Agency's judgment, will best meet the Agency's needs, regardless of any differences in estimated costs between the applicants.
- Consider information about an applicant in addition to information submitted in its Proposal or obtained through interviews.
- Select an applicant other than an applicant responding to this RFP.
- Require additional information from any responding applicant.
- Terminate this process at any time without selecting an applicant.
- Change any deadline or date provided for herein without prior notification.
- Otherwise amend or modify any of the terms or provisions of this RFP.

Section 5 – Preparing and Submitting the Request for Proposal

5.1 Proposal Organization and Format

CalHFA offers the following formatting requirements when submitting a Proposal:

- a) Proposal will be presented on standard 8.5x11 inch paper;
- b) Proposal requires a Table of Contents to include each section heading of the RFP; and
- c) Proposal font should be a size that is clear and legible.

5.2 Submitting the Proposal

Proposals must be e-mailed, mailed, or hand-delivered as explained in Section 1.6, Submission of Proposal. By submitting a proposal, the applicant agrees to the following:

- a) All materials submitted become the property of CalHFA and shall be public information unless a statutory exception exists which would thereby determine that such information cannot be released to the public. If you have information in your Proposal that you believe is an exemption to the public records laws you must identify each and every occurrence of the information in the proposal on a separate page titled "Exemptions to the Public Records Law".

- b) Applicants will respond to all requirements in this RFP and comply with any terms and conditions outlined in the RFP. Failure to do so may result in disqualification of the Proposal.
- c) All costs incurred in preparation of a Proposal shall be borne by the applicant. Proposal preparation costs are not recoverable under the Contract. CalHFA shall not contribute in any way to recovering the cost of Proposal preparation.
- d) If, during the evaluation process, it becomes necessary to make further distinctions between certain applicants, CalHFA may request certain applicants make oral presentations of Proposals to CalHFA staff members, and/or the Internal Evaluation Committee.
- e) Proposals received after the Deadline will not be reviewed. Applicants are advised that there will be no opportunity to correct mistakes or deficiencies in their Proposal after the Deadline. Proposals that are missing required forms and or information may not be evaluated. It is the sole responsibility of the applicant to ensure its Proposal is complete, accurate, responsive to the requirements, and received on time. Proposals not complying with the requirements of the RFP may not be reviewed.

5.3 Proposal Material

All material submitted in accordance with this RFP become the property of CalHFA, and will not be returned. CalHFA reserves the right to use any or all ideas presented in a Proposal, regardless of selection or rejection of the Proposal. The material will be a public record subject to the disclosure provisions of the California Public Records Act (Government Code Section 6250 et seq.).

The contents of all Proposals, correspondence, agenda, memoranda, working papers, or any other medium, which discloses any aspect of an applicant's Proposal, shall be held in strictest confidence until after the Contract is executed. Applicants should be aware that marking a document "confidential" or "proprietary" in a Proposal would not keep that document from being released after final selection.

If CalHFA receives a Public Records Act request that may include confidential information of the Vendor, and CalHFA determines that such records are not exempt from public disclosure, CalHFA will make reasonable efforts to provide written notice to Vendor prior to releasing such information. Vendor may seek relief in court to enjoin the disclosure of such confidential Vendor information, but shall have no other rights or remedies against CalHFA in connection with the disclosure of such information.

EXHIBIT A
DRAFT SERVICES CONTRACT

**SERVICES AGREEMENT-
(CONTRACTOR'S NAME)**

This Services Agreement ("Agreement") is entered into as of _____, 2016, by and between the California Housing Finance Agency, a public instrumentality and political subdivision of the State of California ("Agency" or "CalHFA") and (Contractor's name) ("Contractor").

RECITALS

- A. Agency desires to obtain professional services in connection with the Agency's Marketing Division on matters relating to advertising, marketing and promotion services, and public relations.
- B. Contractor has the requisite experience and expertise to provide those services.
- C. Agency desires to employ Contractor to perform the services described herein.

Therefore, in consideration of the premises and promises contained herein, the receipt and sufficiency of which are hereby acknowledged, Agency and Contractor agree as follows:

AGREEMENT

1. Status of Contractor

a. Contractor will be at all times an independent contractor and not an agent or employee of Agency. As used herein, the term "independent contractor" means Contractor, and any personnel provided by Contractor, who will render the Services specified herein for the specified compensation and who will be deemed to be under the control of Agency as to the results of their work and not as to the means by which such results are accomplished.

b. In the event that Contractor is determined to be an employee of Agency by any federal, state, or local court, governmental agency, instrumentality, or body, or by a third party, Contractor waives any right to recover any type of employee benefits from Agency for the period during which Contractor was determined to have been erroneously treated as an employee.

c. Any and all personnel retained, hired, engaged, or provided by Contractor will be independent contractors for, or employees of, Contractor and not employees of Agency for any purpose whatsoever. All such personnel will be under Contractor's exclusive supervision, direction, and control, and will be compensated by Contractor in Contractor's name and at its expense. Contractor will carry worker's compensation insurance covering all personnel who may be employed by Contractor from time to time for any purpose connected with Contractor's performance hereunder.

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d. Neither Contractor nor its employees or contractors will be eligible to participate in any employee-benefit programs maintained by Agency. Contractor acknowledges that Agency will not provide social security, unemployment compensation, director's and officer's liability insurance, disability insurance, worker's compensation insurance or similar coverage, or any other benefits to Contractor or its employees and or contractors.

2. Contractor's Services

a.

b.

c.

3. Term

This Agreement shall cover services rendered hereunder from _____ through _____.

4. Compensation

a. (To be determined.)

5. Nondiscrimination Clause

a. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), sex, gender, gender identity, gender expression, sexual orientation, familial status, disability (including HIV and AIDS), genetic information, citizenship, primary language, immigration status, or any other basis prohibited by applicable state or federal law. Contractors and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (Title 2, California Code of Regulations, Section 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), including Title 2, California Code of Regulations, Section 11102, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

b. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

6. Agency's Cooperation

Agency shall reasonably cooperate with Contractor in the performance of Contractor's services under this Agreement.

7. Handling of Conflicts of Interest [IF APPLICABLE]

a. Agency has been informed by Contractor that Contractor is an active participant in the tax-exempt and taxable bond markets and from time-to-time during the term of this Agreement will represent on unrelated matters various persons and entities (including bond underwriters, other bond issuers, and other persons and entities represents other entities) with which the Agency may currently be dealing, and that such concurrent representation may create a conflict of interest under the rules of professional responsibility applicable to Contractor. Contractor shall identify to Agency all such persons and entities to the extent known to Contractor. Agency consents to such concurrent representation and waives any conflict of interest that may arise therefrom, subject to Agency's right to withdraw such consent by terminating Contractor's representation of the Agency on any matter creating a conflict of interest.

b. Contractor agrees not to represent any such persons or entities on any related matters without the express written consent of the Agency.

8. Entirety, Amendments, Construction

a. This Agreement supersedes any and all other agreements, oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said matter. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied or referred to herein, and that no other agreement, statement, or promise not contained or referred to in this Agreement shall be valid or binding.

b. This Agreement is entire as to all of the performance to be rendered under it. Breach of any of the performances to be rendered by Contractor shall constitute a breach of the entire Agreement and shall give Agency the right to terminate this Agreement.

c. No amendment or modification of the provisions of this Agreement shall be valid unless made in writing and signed by the parties hereto.

d. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both of the parties had prepared it.

9. Notice

Any notice, tender, or delivery to be given hereunder by either party to the other may be effected by personal delivery, in writing, by facsimile transmission, by e-mail or by mail, postage prepaid, and shall be deemed communicated as of the date of actual receipt. Mailed notices shall be addressed as set forth below, but each party may change its address by written notice in accordance with this paragraph.

To Contractor:		
	Attention: Tel: () Fax: () Email:	
To Agency:	<u>If by mail:</u> California Housing Finance Agency P.O. Box 4034, MS 970 Sacramento, CA 95812-4034 Attention: Kathy Phillips With copy to: California Housing Finance Agency Office of General Counsel P.O. Box 4034, MS 1440 Sacramento, CA 95812-4034 Attention:	<u>If by other means:</u> California Housing Finance Agency 500 Capitol Mall, Suite 1400, MS 970 Sacramento, CA 95814 Attention: Kathy Phillips Tel: (916) 326-8605 Fax: (916) 322-2345 Email: KPhillips@CalHFA.ca.gov With copy to: California Housing Finance Agency Office of General Counsel 500 Capitol Mall, Suite 1400, MS 1440 Sacramento, CA 95814 Tel: (916) 326-8470 Fax: (916) 322-3151 Email: legal@calhfa.ca.gov

10. Nonassignability

No assignment of the rights, nor delegation of the duties of Contractor, whether in whole or in part, shall be valid unless specifically agreed to in writing by Agency.

11. Remedies, Attorney's Fees, Costs

a. Should either party default in the performance of this Agreement or materially breach any of its provisions, the nondefaulting party shall have, in addition to any other remedy provided for at law or in equity, the option of terminating this Agreement immediately by giving written notice to the defaulting party.

b. Additionally, in the event that Contractor defaults in the performance of this Agreement or materially breaches any of its provisions, Agency shall be excused from any obligation to pay unpaid compensation provided for in this Agreement.

c. Agency may terminate this Agreement immediately upon giving notice in writing to Contractor. Such termination may occur without cause. Upon such termination, Agency shall compensate Contractor proportionately based on the percentage that the work performed by Contractor as of the date of termination bears to the total work to be performed by Contractor under this Agreement; or, if Contractor is being compensated at an hourly rate, Agency shall compensate Contractor upon submission and approval of a report of work performed and time expended prior to the date of termination.

d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, in addition to any other relief to which that party may be entitled. This provision for the recovery of attorney's fees and costs shall be construed as applicable to the entire Agreement.

12. Time

Except as specifically provided herein, time is of the essence in this Agreement.

13. Partial Invalidity

If any provision of this Agreement shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

14. Indemnification

Contractor shall indemnify, defend and hold harmless Agency, its officers, agents and employees (i) from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement, and (ii) from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the negligent or intentionally tortious conduct of its performance of this Agreement, including claims made or resulting from any release of confidential information or data provided to Contractor by Agency.

15. Contractor's Qualifications & Statement of Economic Interests

a. Contractor covenants that its previous representations to Agency regarding its qualifications to perform the services provided for herein are true and accurate.

b. Prior to commencement of any services under this Agreement, Contractor's employees and agents, as determined by the Agency ("Designated Filer,") shall complete and file a Statement of Economic Interest (Form 700) as required by Agency's Conflict of Interest Code and Section 87300 et seq. of the Government Code. Each Designated Filer shall also timely complete and file a Statement of Economic Interests annually and upon leaving office, as applicable. Contractor shall provide, and represents that it has provided, to Agency the names and responsibilities of those employees and agents who will be providing services under this Agreement. If, during the term of this Agreement, Contractor desires to have different or additional employees or agents provide services under this Agreement, Contractor shall provide such names and other information requested to Agency so that Agency may determine whether such persons must comply with this provision. Such names shall be provided prior to commencement of any services by such persons.

c. For purposes of this Agreement, Agency has determined that (Name), whose email address is: _____, shall complete the required Statement of Economic Interests, which form will be provided by Agency, if not already on file, and shall comply with the ethics training requirement of Government Code section 11146.3. The Agency reserves the right to require other members of Contractor's staff to comply with the provisions of section b, above.

d. **In the event Contractor or Designated Filer fails to return the completed Statement of Economic Interests to Agency within thirty (30) calendar days from the date this Agreement is executed, or fails to complete and file an annual or leaving office statement or fails to complete the required ethics training within the times required, the Agency reserves the right to withhold payment for any services performed and reserves the right to cancel this Agreement.**

e. In the event the Statement of Economic Interests reveals a conflict of interest which, as determined by the Agency, could impair Contractor's ability to properly or legally perform the services contemplated by this Agreement, Agency reserves the right to cancel this Agreement.

16. Drug-Free Workplace Requirements

Contractor will comply with the requirements of California's Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations as required by Government Code § 8355(a)(1).

b. Establish a Drug-Free Awareness Program as required by Government Code § 8355(a)(2) to inform employees about:

- (i) the dangers of drug abuse in the workplace;
- (ii) the person's or organization's policy of maintaining a drug-free workplace;
- (iii) any available counseling, rehabilitation and employee assistance programs; and,
- (iv) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- (i) receive a copy of the company's drug-free workplace policy statement; and,
- (ii) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both, and Contractor may be ineligible for award of any future State Contracts if it is determined that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Government Code section 8350, et seq.).

17. Child Support Compliance Act

Contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the California Family Code; and

b. The Contractor, to the best of its knowledge, is fully complying with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry in accordance with the requirements of the California Employment Development Department.

18. Copyright Violations

In accordance with Executive Order D-10-99 issued by the Governor of the State of California, Contractor certifies that it has appropriate systems and controls in place to ensure that CalHFA funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

19. Copyright and Ownership of Materials

a. The term “Work”, as used in this Paragraph shall mean all written and printed matter, photographs, art work, pictorial reproductions, drawings or other graphic representations and works of a similar nature, sound recording, films, tapes, original computer programs (including executable computer programs and supporting data in any form) and any other materials or products conceptualized, developed and/or delivered as a result of this Agreement.

b. For Work requiring the use of copyrighted materials, Contractor represents and warrants it has secured, or shall secure by the time of delivery of the Work, all necessary rights and licenses thereto, and upon CalHFA’s request shall furnish to CalHFA the names and addresses of all copyright holder(s) and their agent(s), if any, and the terms of any license(s) or usage granted, at the time of delivery of the Work.

c. Contractor shall deliver to CalHFA, and CalHFA shall be the exclusive owner of, all right, title and interest in the Work, including but not limited to the copyright of the Work and the right to use, duplicate and disclose the Work, in whole or in part, in any manner for any purpose whatsoever, and to authorize others to do so. All Work provided hereunder shall be deemed a “work made for hire” under copyright law.

d. If for any reason CalHFA is not deemed to be the owner of all right, title and interest in the Work, then Contractor hereby assigns all of its right, title and interest in such rights to CalHFA.

e. Contractor represents and warrants that:

- (i) it is free to enter into and fully perform this Agreement;
- (ii) it has secured or will secure all rights and licenses necessary for the production of the Work;
- (iii) neither the Work nor any of the materials contained therein, nor the exercise by either party of the rights granted in this Agreement, will infringe upon or violate the rights or interests of any person or entity;
- (iv) neither the Work nor any part of it will (i) violate the right of privacy, or (ii) constitute a libel or slander against, or (iii)

infringe upon the copyright, literary, dramatic, statutory or common law rights of any person, firm or corporation;

- (v) it has not granted and shall not grant to any person or entity any right that would or might derogate or encumber or interfere with any of the rights granted to CalHFA in this Agreement.

f. Contractor agrees it shall not use any Work for any purpose other than for the purposes contemplated by this Agreement, and further agrees that, upon termination of this Agreement for any reason, Contractor will immediately turn over all Work, including all copies of all Work in any form, in its possession or under its control to CalHFA. Contractor agrees it will not use any Work, or any information it receives or received from CalHFA in connection with any Work, in any way that could or would result in said Work or information being disclosed, inadvertently or otherwise, to any party other than CalHFA or its delegate without CalHFA's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, subject to CalHFA's prior written consent, Contractor may use the Work solely for self-promotional purposes, such as on Contractor's website or as part of a portfolio, provided that Contractor indicate thereon CalHFA's ownership of such Work.

g. Contractor agrees to indemnify, defend and hold harmless CalHFA and its licensees and assigns, and their officers, director, employees, agents, representatives, successors, licensees and assigns from and against all claims, actions, damages, losses, costs and expenses, including reasonable attorney's fees, which any of them may sustain because of the use of the Work and any other materials furnished by Contractor under this Agreement, or because of the breach of any of the representations or warranties made in this Agreement.

20. Confidentiality of Data

a. All financial, statistical, personal, technical, and operational information, including all non-public information of a consumer or customer of CalHFA, and non-public technical and other data and information relating to CalHFA's operation, which are made or become available to Contractor in carrying out this Agreement, shall be protected by Contractor from unauthorized use and disclosure. Contractor will take all reasonable measures, including without limitation such measures as it takes to safeguard its own confidential information, to ensure the security and confidentiality of all information provided to it by CalHFA, to protect against all threats or hazards to the security or integrity of the information, and to protect against unauthorized access to or use of the information.

b. Should Contractor experience a breach of the security of any system it maintains to protect data provided by CalHFA or affecting any of CalHFA's operations or customers, or should any unauthorized release of confidential information occur, Contractor will comply with Civil Code Section 1798.82 and will take all steps necessary to provide notice to CalHFA and all interested parties, including any California resident whose personal information was, or is reasonably believed to have been, acquired by an unauthorized

person. Contractor will also take all steps to correct the cause of said breach and take any and all actions CalHFA deems necessary or appropriate.

c. CalHFA shall have the right, upon reasonable notice, to audit and inspect Contractor's facilities, processes and procedures to ensure the integrity of all information provided by CalHFA. At any time during the term of this Agreement, if CalHFA, in its sole and absolute discretion, determines that Contractor's facilities, processes and procedures do not provide adequate security measures, Contractor shall take such actions CalHFA deems necessary or appropriate to protect the information provided by CalHFA.

d. CalHFA reserves the right to require Contractor, and any employees or contractors of Contractor who may have access to any information provided by CalHFA, to sign a confidentiality agreement.

21. Performance Review

Contractor agrees that Agency or its delegate shall have the right to review, obtain, and copy all records pertaining to the performance of this Agreement. Contractor agrees to provide Agency or its delegate with any relevant information requested and shall permit Agency or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant for the purpose of determining compliance with this requirement. Contractor further agrees to maintain such records for a period of three (3) years after the final payment made under this Agreement.

22. Work Product

All notes, records, reports, summaries and other data provided to Contractor or generated by Contractor in connection with the services performed under this Agreement is the property of the Agency. Upon termination of this Agreement, by cancellation, expiration of its term or otherwise, Contractor will immediately turn over all work product in its possession or under its control to Agency. Contractor agrees it will not use any notes, records, reports, summaries or other data received or generated by Contractor in connection with the services performed under this Agreement in any way that could or would result in such data being disclosed, inadvertently or otherwise, to any party other than the Agency or its delegate without Agency's prior written consent. Nothing in this paragraph shall be construed as a waiver of the attorney work product privilege.

23. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together shall constitute one instrument.

24. California Public Records Act

Contractor acknowledges that, except to the extent that information may be exempt from public disclosure under California Health & Safety Code Section 51615, the California Public Records Act (California Government Code Section 6250, et seq.), or otherwise exempt from disclosure, information possessed by Agency could be subject to disclosure under California law. Agency, its directors, officers, agents, employees and advisors will not be in breach of this Agreement as a result of any public disclosure required by California law.

25. Subcontracts

Agency is retaining Contractor for the unique skills and expertise of Contractor and its personnel. Therefore, no subcontract may be made with any other party furnishing any of the work or services provided for in the Agreement, without the prior written consent of Agency.

26. Survival

The terms, conditions, and warranties contained in the Agreement that by their sense and context are intended to survive the performance hereof by the parties hereunder shall so survive the termination of the Agreement, whether by completion of the performance, cancellation, or otherwise. In addition, the terms of Sections 14 (Indemnification), 15b. (Contractor's Qualification and Statement of Economic Interests), 19 (Confidentiality of Data), 22 (Performance Review if applicable) and 23 (Work Product if applicable) shall survive the termination of this Agreement.

27. Governing Law

This Agreement shall be governed by the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue for any action brought hereunder shall be exclusively in the County of Sacramento.

28. Authority

Each person signing this Agreement on behalf of a party represents and warrants that he or she has the full right, power, legal capacity and authority to sign this Agreement on behalf of such party and that this Agreement shall be binding on that party without the approval of any other person or entity.

CONTRACTOR'S SIGNATURE BELOW IS CERTIFICATION THAT CONTRACTOR AGREES TO AND WILL COMPLY WITH THE PROVISIONS OF SECTION(S) 16, 17 and 18 ABOVE.

WHEREFORE, the parties hereto have executed this Agreement as of the date set forth above, and by their signatures acknowledge their understanding of and agreement to all of its provisions.

Contractor: **NAME OF CONTRACTOR**

By: ****Draft - Do Not Execute****
Name
Title

Agency: **CALIFORNIA HOUSING FINANCE AGENCY,
a public instrumentality and political subdivision
of the State of California**

By: ****Draft - Do Not Execute****
Tia Boatman Patterson
Executive Director